IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

WP(C).No. 16405 of 2006(C)

PETITIONER:

S.SHEELA, PUBLIC WORKS OVERSEER GRADE II KOLLAM CORPORTION, KOLLAM- 691 001, RESIDING AT RAJU VILASAM, PERUMPUZHA P.O. PERUMPUZHA THAZHAM, KOLLAM- 691 504.

BY ADV. SRI.B.SURESH KUMAR.

RESPONDENTS:
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1. **THE STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE KERALA PUBLIC SERVICE COMMISSION, REPRESENTED BY ITS SECRETARY, PATTOM, THIRUVANANTHAPURAM.**
3. **THE KOLLAM CORPORATION, REPRESENTED BY ITS SECRETARY, CORPORATION BUILDINGS,KOLLAM- 691 001.**

BY ADV. SRI. ALEXANDER THOMAS, SC, PSC FOR R2,
ADV. SRI. M.K. CHANDRA MOHAN DAS FOR R3,
SR. GOVT. PLEADER SRI. NANDAKUMAR FOR R1.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.16405/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE NOTIFICATION DTD. 17/05/2006 ISSUED BY THE KERALA PUBLIC SERVICE COMMISSION.

EXT.P.2: COPY OF THE SPECIAL RULES FOR THE KERALA MUNICIPAL COMMON SERVICE (ENGINERING & TOWN PLANNING SERVICE), 2001 PUBLISHED IN THE KERALA GAZETTE DTD. 09/08/2001.

EXT.P.3: COPY OF THE SPECIAL RULES FOR THE KERALA ENGINEERING SERVICE (AMENDMENT) RULES, 1994 PUBLISHED IN THE KERALA GAZETTE DTD. 28/06/1994.

EXT.P.4: COPY OF THE APPLICATION DTD. 30/05/2006 SUBMITTED BY THE PETITIONER BEFORE THE R.2.

RESPONDENT'S EXHIBIT:

EXT.R2.A: COPY OF THE GAZETTE NOTIFICATION DTD. 17/05/06.

//TRUE COPY//

prv.

V.GIRI,J.

W.P.(C) No. 16405 of 2006

Dated this the 24th day of September, 2007

JUDGMENT

The petitioner is working as a Public Works Overseer Grade II in the Kollam Corporation. This post is included in the Kerala Municipal Common Service. Ext.P1 notification was issued by the Public Service Commission inter alia inviting applications for the post of Assistant Engineers in various departments including the Municipal Common Service. The recruitment to the post of Assistant Engineer in the Municipal Common Service is from among the posts included in Category-6 of the Municipal Common Service. Category-6 in the Municipal Common Service consists of Public Works Overseer Grade I/Draftsman Grade I/Water Inspector Grade I/Town Planning and Building Inspector/Town Planning Surveyor. Category-7 of the same consists of Public Works Overseer Grade II/Draftsman Grade II/Water Works Inspector Grade II/Town Planning Surveyor Grade II. The petitioner's grievance is that recruitment to the post in Category-4 in the Municipal Common Service, viz. Assistant Engineer/Head Draftsman/Town Planning Officer Grade II/Assistant Town Planning Officer can be either by direct recruitment or by promotion from among persons holding the posts under category-6. Category-6, according to the petitioner, should have included Overseer Grade II or Draftsman Grade II. Reference in this regard is made to

the post of Assistant Engineer in the PWD and several other departments to contend that there is no reason why Overseer/Draftsman Grade II should not be treated as a feeder category for promotion to the post of Assistant Engineer. Ext.P2 Special Rules have been challenged to the extent of Overseer Grade II from among the persons being considered for promotion to the post of Assistant Engineer. Consequently, a direction to the Public Service Commission to consider the petitioner also as eligible for applying to the post of Assistant Engineer pursuant to Ext.P1 notification dated 17.5.2006, has also been prayed for.

2. Assuming for a moment that the petitioner's contention regarding exclusion of Overseer/Draftsman Grade II in the Municipal Common Service from the feeder category for promotion to the post of Assistant Engineer in the Municipal Common service is accepted by this Court, obviously, any declaration and consequential action in the matter of special rules can only be prospective, if the special rules are not challenged for any other reason viz. that it goes against any plenary statute or otherwise goes against any constitutional provision. In the circumstances, even if the petitioner's challenge against the special rules is accepted, it will not entitle the petitioner to make an application pursuant to Ext.P1. Obviously, the eligibility of applicants who respond to Ext.P1 must be assessed with reference to the date of the notification.

3. In the circumstances, I refrain from considering the challenge raised by the petitioner against Ext.P2 special rules in this writ petition. Petitioner's contention in that regard are left open for the reason that no

relief could otherwise be granted to the petitioner, vis-a-vis, Ext.P1 notification.

The writ petition is disposed of as above.

V.GIRI, JUDGE

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